

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION [S] NO. 6311 /2006****PETITIONER**

:- Kumari Reba Rani Mandal aged 55 years, D/o Shri S.S. Mandal, Occupation- Principal, Government High School, Doomartarai, block-Dharsiwa, District Raipur [C.G.]. R/o A-5 Radhaswami Nagar, Bhatgaon Chowk, Sundar Nagar, Raipur [C.G.].

VERSUS**RESPONDENTS**

- :- 1] State of Chhattisgarh, Through - Secretary, School Education Department, D.K.S. Bhavan, Raipur [C.G.].
- 2] Director, Public Instructions, Raipur [C.G.].
- 3] District Education Officer, [D.E.O.] Raipur [C.G.].
- 4] Devendra Pratap Singh, Principal, Government High School Doomartarai, Raipur [C.G.].

P.R. No. 6340/06
Presented by Shri. Rahul
dated 14-11-06

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**WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA**

मामला क्रमांक W.P...6311/26.... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>21.11.2006:</u> Shri Rahul Birthhary counsel for the petitioner. Heard on admission. This petition is directed against the order dated 16.10.2006 of Annexure P-1 by which the respondent No.3 has cancelled the transfer order of respondent No.4 dated 11.8.2006 - Annexure P-6 and in pursuance of the same respondent No.4 was arbitrarily relieved from the place of his transfer and was allowed to join Government High School Doomartarai where the petitioner is already posted as Principal. 2. Learned counsel for the petitioner submits that the order of Annexure P-1 is in utter violation of the transfer policy of 2006-07 of Annexure P-11, rationalization policy of Annexure P-12 as also circular dated 16.6.2003 Annexure P-13. He further submits that because of the above order surplus has been created in the school as a result of which the financial and administrative problems to the normal functioning of the school, has arisen. He placed reliance on the decision of the Supreme court in the matter of E.P. Royappa Vs. State of Tamil Nadu and another reported in AIR 1974 S.C. 555 and argued that the State action must be based on valid and relevant principles and should not be guided by extraneous or irrelevant considerations and where the operative reason for State action is not legitimate and relevant but is extraneous and outside the area of permissible considerations, the same amounts to mala fide exercise of power and is hit by Articles 14 and 16 of the Constitution of India and in such cases the affected public servant has a right to challenge the same.	

मामला क्रमांक W.P. 6311/06 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	3. I have perused the impugned order, the averments made in the petition and documents enclosed with it. 4. The petitioner has filed the instant petition with the averment that she was working as Lecturer and was transferred to Government Higher Secondary School, Kharora and thereafter vide order of Annexure P-3 as per the rationalization the transfer orders of all the lecturers were amended and thus the petitioner was posted as Principal at Government High School, Doomartarai against the vacancy caused due to the transfer of respondent No.4 and the transfer order of respondent No.4 has been cancelled and he joined Government High School, Doomartarai. Thus the petitioner apprehends that she may not be allowed to work as Principal in the said school. 5. The petitioner has not pleaded any express mala fide on the part of the respondents in passing the order of annexure P-1 except vaguely pleading that the same has been passed arbitrarily as a result of bias or favoritism. 6. It is true that in the matter of E.P. Royappa (supra) the Supreme Court has held that even if a public servant is in an officiating position, he can complain of violation of Articles 14 and 16 of the Constitution of India if he has been arbitrarily or unfairly treated or subjected to mala fide exercise of power by the State machinery. However, in the instant case it is found that there is no allegation that the order of annexure P-1 has been passed as a result of mala fide against the petitioner. The order nowhere affects the posting of the petitioner in the present place of posting and therefore, this Court is of the view that the petitioner has no locus standi to challenge the impugned order by which the transfer order of respondent No.4 has been cancelled.	

मामला क्रमांक W.P. 6311/06.... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	- 3 - Thus, the petitioner has no force and the same is liable to be dismissed. It is accordingly dismissed.	- 3 - Sd/- Dhirendra Mishra Judge

P.T.O.

for
25/11/06
Date
02/12/06